

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

PORFIRIO CONDE CHEESMAN,

Plaintiff,

v.

SWISSPORT USA INC,

Defendant.

CASE NO. C20-1276 MJP

ORDER DECLINING TO SERVE
COMPLAINT AND GRANTING
LEAVE TO AMEND

Plaintiff has filed a civil complaint with this court. The Court, having reviewed the complaint and record, does hereby find and ORDER that the complaint is defective for the following reasons:

(1) Rule 8(a) of the Federal Rules of Civil Procedure provide that

A pleading which sets forth a claim for relief... shall contain (1) a short and plain statement of the grounds upon which the court's jurisdiction depends, unless the court already has jurisdiction to support it, (2) a short and plain statement of the clam showing that the pleader is entitled to relief, and (3) a demand for judgment for the relief the pleader seeks...

Fed. R. Civ. P. 8(a).

1 Plaintiff's complaint does not comply with any of the requirements set forth in Rule 8(a).
2 If plaintiff wishes to proceed with this action, he must specifically identify the basis for this
3 Court's jurisdiction. In addition, he must provide the Court with a statement of his claim, and he
4 must provide a clear and concise demand for relief.

5 (a) His cause of action under RCW 9A.36.021 (assault in the second degree) is a
6 criminal offense and may not be prosecuted via a civil action.

7 (b) Plaintiff claims to have a cause of action under 42 U.S.C. § 2000a. This statute
8 covers discrimination in places of public accommodation (for example, a
9 restaurant, hotel or movie theater). Plaintiff alleges he worked as a baggage
10 handler at SeaTac Airport, which is not a place of "public accommodation" such
11 as is contemplated in the statute.

12 (c) Plaintiff appears to plead a cause of action for discriminatory termination based
13 on his race and/or ethnicity, but his complaint only alleges that he "is a different
14 look and a different nationality," without specifically alleging the ethnic or racial
15 minority to which he belongs.

16 (d) Plaintiff claims to have a cause of action under 42 U.S.C. § 1983, but this statute
17 requires that the defendant be acting "under color of state law." There is no
18 allegation to that effect in Plaintiff's complaint.

19 (2) Plaintiff may file an amended complaint curing the above-mentioned deficiencies
20 within thirty days of the date on which this Order is signed. The amended complaint must be
21 legible and must be sufficiently clear to produce a readable scanned image. In addition, the
22 amended complaint must carry the same case number as this one. If no amended complaint is
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1 timely filed, the Court will recommend that this matter be dismissed under 28 U.S.C. §
2 1915(e)(2)(B)(ii).

3 Plaintiff is advised that an amended pleading operates as a complete substitute for an
4 original pleading. *See Ferdik v. Bonzelet*, 963 F.2d 1258, 1262 (9th Cir.)(citing *Hal Roach*
5 *Studies, Inc. v. Richard Feiner & Co., Inc.*, 896 F.2d 1552, 1546 (9th Cir. 1990)(as amended),
6 *cert. denied*, 506 U.S.915 (1992). Thus, if plaintiff chooses to file an amended complaint, the
7 Court will not consider his original complaint.

8 The clerk is ordered to provide a copy of this order to Plaintiff.

9 Dated September 1, 2020.

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11 Marsha J. Pechman
12 United States Senior District Judge
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